

SENATE AMENDMENTS

2nd Printing

By: Smithee, Frullo, Sheets

H.B. No. 2145

A BILL TO BE ENTITLED

AN ACT

relating to provisional authority for certain individual insurance license applicants to act as insurance agents; authorizing a fee; requiring an occupational provisional permit.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 4001, Insurance Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. PROVISIONAL PERMIT

Sec. 4001.351. APPLICABILITY. This subchapter applies only to an applicant for a license as an agent under:

(1) Subchapters B and E, Chapter 4051; and

(2) Subchapters B, D, and E, Chapter 4054.

Sec. 4001.352. AUTHORITY TO ISSUE PROVISIONAL PERMIT. The department may, in conjunction with a license application under Section 4001.102, issue a provisional permit to an applicant who is being considered for appointment as an agent by another agent, an insurer, or a health maintenance organization.

Sec. 4001.353. APPLICATION FOR AND ISSUANCE OF PROVISIONAL PERMIT. (a) The department may issue a provisional permit under this subchapter on receipt of:

(1) a written application for a provisional permit;

(2) a properly completed license application, nonrefundable fee, and each other item required for a license under this chapter and Subchapters B or E, Chapter 4051, or Subchapters B,

1 D, or E, Chapter 4054, as applicable;

2 (3) the nonrefundable fee in an amount set by the
3 department for the issuance of the provisional permit; and

4 (4) a certificate signed by the appointing agent,
5 insurer, or health maintenance organization stating that:

6 (A) the applicant completed the training, if any,
7 and passed the examination required for the issuance of the license
8 for which the application is submitted;

9 (B) the appointing agent, insurer, or health
10 maintenance organization completed a background check on the
11 applicant that shows that the applicant has not been convicted of:

12 (i) a felony; or

13 (ii) an act that requires the applicant to
14 receive written consent under 18 U.S.C. Section 1033 to engage in
15 the business of insurance;

16 (C) the applicant has not responded
17 affirmatively to any question on the license application that
18 indicates the applicant has a criminal conviction or has been
19 involved in an administrative action that may disqualify the
20 applicant from receiving a license; and

21 (D) the appointing agent, insurer, or health
22 maintenance organization will supervise the work of the applicant.

23 (b) An applicant is not qualified to receive a provisional
24 permit if the applicant has not taken the examination required for
25 the issuance of the permanent license for which the applicant
26 applied under Section 4001.102.

27 Sec. 4001.354. AUTHORITY TO ACT AS AGENT PENDING RECEIPT OF

1 PROVISIONAL PERMIT. An applicant may proceed to act as an agent if:

2 (1) a provisional permit is not received from the
3 department before the eighth day after the date the application,
4 nonrefundable fee, and other items required under Section
5 4001.353(a) are delivered or mailed to the department; and

6 (2) the applicant or appointing agent, insurer, or
7 health maintenance organization has not been notified that the
8 application for the permit is incomplete or is or may be denied.

9 Sec. 4001.355. TERM OF PROVISIONAL PERMIT. (a) Except as
10 provided by Subsection (b), a provisional permit expires on the
11 earlier of:

12 (1) the 90th day after the date the permit is issued;
13 or

14 (2) the date a license is issued or the license
15 application is denied.

16 (b) If the license, or a notice that the license is denied,
17 is not received from the department on or before the 90th day after
18 the date the application, nonrefundable fee, and other items
19 required under Section 4001.353(a) are delivered or mailed to the
20 department, the authority of the applicant to act as an agent under
21 this subchapter automatically extends until the earlier of the date
22 the license is issued or the license application is denied or the
23 90th day after the expiration of the 90-day period under Subsection
24 (a).

25 Sec. 4001.356. NOTIFICATION REGARDING LICENSE. (a) The
26 department may notify the applicant or appointing agent, insurer,
27 or health maintenance organization that the license application is

1 incomplete or is or may be denied at any time before the issuance or
2 denial of a license.

3 (b) An applicant who receives a notice under Subsection (a)
4 shall immediately cease acting as an agent under this subchapter.
5 An appointing agent, insurer, or health maintenance organization
6 that receives notice under Subsection (a) shall immediately notify
7 the applicant of the notice.

8 (c) Unless the applicant or appointing agent, insurer, or
9 health maintenance organization has been notified that the
10 provisional permit is or may be denied, an applicant may resume
11 working as an agent after receiving a notice that the application is
12 incomplete under Subsection (a) after the applicant submits to the
13 department the information required to complete the application or
14 has the appointing agent, insurer, or health maintenance
15 organization submit the information.

16 (d) An applicant acting as an agent under this subchapter
17 before receiving a notice under Subsection (a), if applicable, is
18 not engaged in the unauthorized business of insurance and any
19 transaction entered into by the applicant before receiving the
20 notice, if applicable, is presumed lawful.

21 (e) An applicant may act as an agent only for the appointing
22 agent, insurer, or health maintenance organization except that an
23 appointing insurer may include appointments for one or more
24 affiliated insurers that are part of the same insurance holding
25 company group.

26 Sec. 4001.357. DENIAL OR REVOCATION OF LICENSE. If the
27 applicant's license application is denied or the applicant's

1 license is revoked, an applicant is subject to Section 4005.105
2 with respect to an application for a provisional permit under this
3 subchapter.

4 Sec. 4001.358. REPLACEMENT OF EXISTING LIFE INSURANCE OR
5 ANNUITY CONTRACT PROHIBITED. (a) A provisional permit holder who
6 is acting under the authority of that permit may not:

7 (1) engage in an insurance solicitation, sale, or
8 other agency transaction that the permit holder knows or should
9 know will result or is intended to result in:

10 (A) the purchase of a new life insurance or
11 annuity contract; and

12 (B) any of the following actions with regard to
13 an existing individual life insurance or annuity contract as a
14 result of that purchase:

15 (i) termination of the contract by lapse,
16 forfeiture, surrender, or other means;

17 (ii) conversion of the contract to reduced
18 paid-up insurance, continuation of the contract as extended term
19 insurance, or reduction in value of the contract by the use of
20 nonforfeiture benefits or other policy values;

21 (iii) amendment of the contract to reduce:

22 (a) benefits; or

23 (b) the term for which coverage would
24 otherwise remain in force or for which benefits would be paid;

25 (iv) reissuance of the contract with a
26 reduction in cash value; or

27 (v) pledge of the contract as collateral or

1 subjection of the contract to borrowing, whether in a single loan or
2 under a schedule of borrowing, for amounts that in the aggregate
3 exceed 25 percent of the loan value prescribed by the contract; or

4 (2) directly or indirectly receive a commission or
5 other compensation that results or may result from a solicitation,
6 sale, or other agency transaction described by Subdivision (1).

7 (b) A person who holds a permanent license may not
8 circumvent or attempt to circumvent the intent of this section by
9 acting for or with a provisional permit holder.

10 Sec. 4001.359. SUPERVISORY RESPONSIBILITY. An appointing
11 agent, insurer, or health maintenance organization that allows a
12 permit holder to act as an agent under a provisional permit has
13 supervisory responsibility over the permit holder.

14 SECTION 2. The change in law made by this Act applies only
15 to an applicant who files a license application on or after the
16 effective date of this Act.

17 SECTION 3. This Act takes effect September 1, 2015.

ADOPTED

MAY 18 2015

Atalay Spaw
Secretary of the Senate

By: _____ .B. No. _____

Substitute the following for ____B. No. _____:

By: *BCright* C.S. H.B. No. 2145

A BILL TO BE ENTITLED

1

AN ACT

2 relating to provisional authority for certain individual insurance
3 license applicants to act as insurance agents; authorizing a fee;
4 requiring an occupational provisional permit; adding provisions
5 that may be subject to a criminal penalty.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Chapter 4001, Insurance Code, is amended by
8 adding Subchapter H to read as follows:

9 SUBCHAPTER H. PROVISIONAL PERMIT

10 Sec. 4001.351. APPLICABILITY. This subchapter applies only
11 to an applicant for a license as an agent under:

12 (1) Subchapters B and E, Chapter 4051; and

13 (2) Subchapters B, D, and E, Chapter 4054.

14 Sec. 4001.352. AUTHORITY TO ISSUE PROVISIONAL PERMIT. The
15 department may, in conjunction with a license application under
16 Section 4001.102, issue a provisional permit to an applicant who is
17 being considered for appointment as an agent by another agent, an
18 insurer, or a health maintenance organization.

19 Sec. 4001.353. APPLICATION FOR AND ISSUANCE OF PROVISIONAL
20 PERMIT. (a) The department may issue a provisional permit under
21 this subchapter on receipt of:

22 (1) a written application for a provisional permit;

23 (2) a properly completed license application,
24 nonrefundable fee, and each other item required for a license under

1 this chapter and Subchapter B or E, Chapter 4051, or Subchapter B,
2 D, or E, Chapter 4054, as applicable;

3 (3) the nonrefundable fee in an amount authorized by
4 Subsection (c); and

5 (4) a certificate signed by the appointing agent,
6 insurer, or health maintenance organization stating that:

7 (A) the applicant completed the training, if any,
8 and passed the examination required for the issuance of the license
9 for which the application is submitted;

10 (B) the appointing agent, insurer, or health
11 maintenance organization completed a background check on the
12 applicant that shows that the applicant has not been convicted of:

13 (i) a felony; or
14 (ii) an act that requires the applicant to
15 receive written consent under 18 U.S.C. Section 1033 to engage in
16 the business of insurance;

17 (C) the applicant has not responded
18 affirmatively to any question on the license application that
19 indicates the applicant has a criminal conviction or has been
20 involved in an administrative action that may disqualify the
21 applicant from receiving a license; and

22 (D) the appointing agent, insurer, or health
23 maintenance organization will supervise the work of the applicant.

24 (b) An applicant is not qualified to receive a provisional
25 permit if the applicant has not taken and passed the examination
26 required for the issuance of the permanent license for which the
27 applicant applied under Section 4001.102.

1 (c) The nonrefundable fee described by Subsection (a) shall
2 be set by the department in an amount that:

3 (1) is reasonable and necessary to implement this
4 subchapter; and

5 (2) may not exceed the amount of the fee required for
6 an application for a permanent license.

7 Sec. 4001.354. AUTHORITY TO ACT AS AGENT UNDER PROVISIONAL
8 PERMIT. (a) An applicant may proceed to act as an agent if:

9 (1) a provisional permit is not received from the
10 department before the eighth day after the date the application,
11 nonrefundable fee, and other items required under Section
12 4001.353(a) are delivered or mailed to the department; and

13 (2) the applicant or appointing agent, insurer, or
14 health maintenance organization has not been notified that the
15 application for the permit is incomplete or is or may be denied.

16 (b) An applicant may act as an agent only for the appointing
17 agent, insurer, or health maintenance organization except that an
18 appointing insurer may include appointments for one or more
19 affiliated insurers that are part of the same insurance holding
20 company group.

21 Sec. 4001.355. TERM OF PROVISIONAL PERMIT. (a) Except as
22 provided by Subsection (b), a provisional permit expires on the
23 earlier of:

24 (1) the 90th day after the date the permit is issued;
25 or

26 (2) the date a license is issued or the license
27 application is denied.

1 (b) If the license, or a notice that the license is denied,
2 is not received from the department on or before the 90th day after
3 the date the application, nonrefundable fee, and other items
4 required under Section 4001.353(a) are delivered or mailed to the
5 department, the authority of the applicant to act as an agent under
6 this subchapter automatically extends until the earlier of the date
7 the license is issued or the license application is denied or the
8 90th day after the expiration of the 90-day period under Subsection
9 (a).

10 Sec. 4001.356. NOTIFICATION REGARDING LICENSE. (a) The
11 department may notify the applicant or appointing agent, insurer,
12 or health maintenance organization that the license application is
13 incomplete or is or may be denied at any time before the issuance or
14 denial of a license.

15 (b) An applicant who receives a notice under Subsection (a)
16 shall immediately cease acting as an agent under this subchapter.
17 An appointing agent, insurer, or health maintenance organization
18 that receives notice under Subsection (a) shall immediately notify
19 the applicant of the notice.

20 (c) An applicant acting as an agent under this subchapter
21 before receiving a notice under Subsection (a), if applicable, is
22 not engaged in the unauthorized business of insurance and any
23 transaction entered into by the applicant before receiving the
24 notice, if applicable, is presumed lawful.

25 (d) A notification under this section applies only to a
26 provisional permit, and the department shall continue to process an
27 application for a license unless the license has been denied.

1 Sec. 4001.357. DENIAL OR REVOCATION OF LICENSE. If the
2 applicant's license application is denied or the applicant's
3 license is revoked, an applicant is subject to Section 4005.105
4 with respect to an application for a provisional permit under this
5 subchapter.

6 Sec. 4001.358. COMPLIANCE WITH OTHER LAW. (a) A
7 provisional permit holder who is acting under the authority of that
8 permit is subject to all provisions of this code regulating the
9 solicitation and sale of insurance that relate to the type of
10 permanent license for which the provisional permit holder applied.

11 (b) A provisional permit holder that applied for a life and
12 annuity license must comply with Chapter 1114 with respect to the
13 replacement of life insurance policies and annuities.

14 (c) A person who holds a permanent license may not
15 circumvent or attempt to circumvent the intent of this section by
16 acting for or with a provisional permit holder.

17 Sec. 4001.359. SUPERVISORY RESPONSIBILITY. An appointing
18 agent, insurer, or health maintenance organization that allows a
19 permit holder to act as an agent under a provisional permit has
20 supervisory responsibility over the permit holder.

21 SECTION 2. The change in law made by this Act applies only
22 to an applicant who files a license application on or after the
23 effective date of this Act.

24 SECTION 3. This Act takes effect September 1, 2015.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 18, 2015

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2145 by Smithee (Relating to provisional authority for certain individual insurance license applicants to act as insurance agents; authorizing a fee; requiring an occupational provisional permit; adding provisions that may be subject to a criminal penalty.), **As Passed 2nd House**

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would amend the Insurance Code relating to provisional authority for certain individual insurance license applicants to act as insurance agents; authorizing a fee; requiring an occupational provisional permit; adding provisions that may be subject to criminal penalty.

Based on information provided by the Texas Department of Insurance (TDI), the bill would amend the Insurance Code to allow TDI to issue a provisional permit to an applicant who is being considered for appointment as an agent by another agent, an insurer, or a health maintenance organization and charge a fee. TDI estimates that approximately 60,000 applicants would request this dual license. Assuming a \$50 filing fee, the bill could result in increased revenues totaling approximately \$3,000,000 each fiscal year that would be deposited to General Revenue-Dedicated Texas Department of Insurance Fund 36 (Fund 36). Since Fund 36 is a self-leveling account, this analysis also assumes that any additional revenue resulting from the implementation of the bill would accumulate in account fund balances and that TDI would adjust the assessment of the maintenance tax or other fees accordingly in the following year.

Additionally, this analysis assumes that all duties and responsibilities necessary to implement the provisions of the bill could be accomplished utilizing existing staff and resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 454 Department of Insurance

LBB Staff: UP, SD, CL, AG, NV, ER

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 8, 2015

TO: Honorable Kevin Eltife, Chair, Senate Committee on Business & Commerce

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2145 by Smithee (Relating to provisional authority for certain individual insurance license applicants to act as insurance agents; authorizing a fee; requiring an occupational provisional permit; adding provisions that may be subject to a criminal penalty.),
Committee Report 2nd House, Substituted

<p>No significant fiscal implication to the State is anticipated.</p>
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Additionally, this analysis assumes that all duties and responsibilities necessary to implement the provisions of the bill could be accomplished utilizing existing staff and resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 454 Department of Insurance

LBB Staff: UP, CL, AG, NV, ER

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 27, 2015

TO: Honorable Kevin Eltife, Chair, Senate Committee on Business & Commerce

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2145 by Smithee (Relating to provisional authority for certain individual insurance license applicants to act as insurance agents; authorizing a fee; requiring an occupational provisional permit.), **As Engrossed**

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would amend the Insurance Code relating to provisional authority for certain individual insurance license applicants to act as insurance agents; authorizing a fee; requiring an occupational provisional permit.

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Additionally, this analysis assumes that all duties and responsibilities necessary to implement the provisions of the bill could be accomplished utilizing existing staff and resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 454 Department of Insurance

LBB Staff: UP, CL, AG, NV, ER

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

March 24, 2015

TO: Honorable John Frullo, Chair, House Committee on Insurance

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2145 by Smithee (Relating to provisional authority for certain individual insurance license applicants to act as insurance agents; authorizing a fee; requiring an occupational provisional permit.), **As Introduced**

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would amend the Insurance Code relating to provisional authority for certain individual insurance license applicants to act as insurance agents; authorizing a fee; requiring an occupational provisional permit.

Based on information provided by the Texas Department of Insurance (TDI), the bill would amend the Insurance Code to allow TDI to issue a provisional permit to an applicant who is being considered for appointment as an agent by another agent, an insurer, or a health maintenance organization and charge a fee. TDI estimates that approximately 60,000 applicants would request this dual license. Assuming a \$50 filing fee, the bill could result in increased revenues totaling approximately \$3,000,000 each fiscal year that would be deposited to General Revenue-Dedicated Texas Department of Insurance Fund 36 (Fund 36). Since Fund 36 is a self-leveling account, this analysis also assumes that any additional revenue resulting from the implementation of the bill would accumulate in account fund balances and that TDI would adjust the assessment of the maintenance tax or other fees accordingly in the following year.

Additionally, this analysis assumes that all duties and responsibilities necessary to implement the provisions of the bill could be accomplished utilizing existing staff and resources.

Local Government Impact

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